

FY2012 Work Plan

Office of Indian Tribal Governments



Tax Exempt Government Entities Division

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FY2012
Indian Tribal Governments Work Plan

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Executive Summary

ITG will continue to utilize a balanced approach to the development and implementation of its annual work objectives. Employee input, customer feedback, and data-driven analysis of tax and economic data serve as the foundation for determining the specific areas of focus as it has since standup in 2001.

FY2012 will represent a continuation of many programs. ITG will continue to provide outreach and education to its customers, where such actions are the optimal method to improve compliance and share critical information. This will include large scale outreach events for regional and national tribal groups, intensive hands-on training where ITG must enable compliance, and the continuation of the use of the Internet and Intranet sites. ITG's targeted Outreach efforts which were piloted nationally in FY 2009 will continue in FY2012.

The ITG News has been consolidated into one delivery system to our customers. GovDelivery System will provide electronic news editions for the distinct regional audiences.

ITG will continue its Compliance Check program. During FY2011, ITG began to revamp the tribal self compliance-check program with a revised check sheet and new communication broadcasts of the program to the tribal community. ITG anticipates concluding the rebuilding of the tribal self compliance-check program in FY2012.

ITG will maintain an examination focus on the issues where noncompliance is a major concern. A focus will remain on the use of gaming revenues, continuing an existing Gaming Initiative. Many of these examinations will involve Forms 945 and Information Reporting Exams, since historic data has disclosed the lowest level of voluntary compliance is within that area. Some resources will be applied to traditional Employment tax issues, particularly in those areas where data shows ongoing problems, with an additional emphasis on smaller entities that have exhibited continuing noncompliance. ITG will continue, on a limited basis, to pursue wagering excise tax cases, in order to ensure that horizontal equity exists with this issue. ITG will continue its Bank Secrecy Act Compliance Check program begun in FY2007 to assist tribes in assessing BSA compliance, and in effecting improvements in BSA compliance programs. An improved partnership with the BSA staff in SBSE will be utilized to better focus this effort.

ITG will continue to utilize the Government Entities Compliance Unit (GECU) at the Ogden Campus, as a new vehicle to address and measure compliance concerns. Existing field workload that can be addressed through correspondence may be transferred to the GECU, including Compliance Checks on remote smaller entities, procurement of delinquent returns, and assistance in processing field examinations generated by ITG Specialists.

ITG will continue its extensive use of data to analyze compliance levels and trends, adjust workload selection formulas, and measure customer satisfaction. The analysis will continue to be used to determine program direction, develop targeted compliance improvement products, and assess the impact of ITG efforts.

PLANNING PROCESS

Overview of ITG

The office of Indian Tribal Governments was established in FY 2001 as part of the Service's modernization process. The office is responsible for federal tax administration issues relating to the 565 federally recognized Indian tribes. This includes various employment taxes, excise taxes, anti-money laundering statutes, income taxes, and information reporting. ITG is also responsible for ensuring that the Service is in compliance with the provisions of various treaty-based rights of Indian tribes and various Executive Orders that outline the government-to-government relationship that is required for all interactions.

For FY2012, ITG will continue its comprehensive planning process to ensure that the Work Plan reflected input from IRS data, customers, and employees. Responsibility for the implementation of the Annual Work Plan is vested with the ITG Director and the Compliance and Program Management Manager.

Although there are only 565 federally recognized Indian tribes, the continuing emergence and growth of tribal economies, largely fueled by gaming, requires ITG to interact with over 2,750 current tribal entities. However, the continuing economic downturn has affected some tribal ventures. *Indian Gaming Industry Report* finds that the ailing economy took its toll on Indian gaming in 2009. In fact, on a nationwide basis, gaming revenue at Indian gaming facilities declined for the first time in the recorded history of Indian gaming.¹ According to the report, gaming revenue at Indian gaming facilities nationwide decreased 1 percent, from \$26.7 billion in calendar year 2008 to \$26.4 billion in calendar year 2009. This decline was slight considering the 8 percent decline in the commercial casino segment of the gaming industry, but continues the slowdown in Indian gaming of the past several years. Performance, however, varied widely across states, tribes, and gaming facilities. Although the majority of Indian gaming facilities suffered a decline in 2009, many grew. The states with the highest amounts of gaming revenue from Indian gaming were California, Oklahoma, Connecticut, Florida, and Washington, while Indian gaming grew fastest in Alabama, Wyoming, Alaska, Nebraska, and Washington.

Methodology

ITG has continued to identify Trends, Issues, and Problems (TIPs) as part of its planning process. The ITG office recognizes that an accurate Work Plan requires a data-driven approach to help refine the TIP areas into specific areas of focus. This approach provides additional information on which to actually plan critical work.

¹ Indian Gaming Industry Report – Dated March 3, 2011/ Author Dr. Alan Meister

To accomplish this objective, ITG embarked on a multiple-stage data collection process, including:

- Formal analysis of compliance,
- Customer feedback, and
- Environmental scanning by the field employees.

A Compliance Initiative was initiated in FY 2001, which utilized generally accepted research methodology to analyze federal tax compliance by Indian tribal governments. A major component of this effort was an analysis of Master File information and external data that would assist in determining compliance issues that exist on a national scale. This work has been repeated in each subsequent fiscal year, and it assisted in determining issues for the FY2012 Work Plan. It also is used to create new measures that can be contrasted to data from the prior analyses to determine compliance trends over time. The latest analysis reflected the following issues as being present on a regional or national scale:

- Anti-Money Laundering Requirements
- Information Reporting (including withholding on Forms W-2G and per capita distributions from gaming)
- Tip Reporting Compliance
- Employment tax filing and payment compliance

The areas of concern identified through numerous meetings with tribal groups and trade associations this process includes:

- Anti-Money Laundering Requirements (with added focus on Suspicious Activity Reporting)
- Tip Reporting Compliance
- Communication mechanisms with tribes
- Tax Exempt Bonds
- Pension Plans
- FICA and Federal withholding on Tribal Council pay (Revenue Ruling 59-354)
- Employment taxes for Board and Committee Members

ITG has conducted a Customer Satisfaction Survey each year, which identifies areas of strength where ITG needs to maintain its current efforts, as well as areas for improvement. The FY2012 Work Plan includes continuing actions designed to address the needs that surfaced in prior surveys, including improved communication mechanisms and products/services to assist with tribal member tax issues. These actions are further supported by feedback secured during Listening Meetings held under the auspices of the ITG Consultation process.

Employee feedback secured through the field groups helped to identify issues/customer needs, including:

- Tip Reporting compliance
- Employment Tax assistance, with an emphasis on penalty administration
- Per capita distributions (need-based payments, information reporting)
- Title 31

- Gaming issues, with a focus on classification of games in regard to reporting and withholding requirements

In addition to the issues surfaced through data analysis, customer feedback, and employee input, ITG will devote FY2012 resources to address abusive issues surfacing within Indian tribal enterprises. ITG will continue to seek to partner with tribes to address issues regarding promotion of tax schemes, as well as to address internal abuses that harm tribal finances.

Thus, the foundation for the formulation of the FY2012 ITG Work Plan is based on the TIP area, but refined to specific issues through the analysis of IRS data, customer input, employee input, and environmental scanning. These issues form the basis for the compliance activities to be undertaken in FY2012. The major areas of emphasis are those that were reflected in the analysis of compliance, and reinforced through customer and employee input. These include Tip Reporting Compliance, Employment Tax accuracy (including deposits and penalties), Anti-Money Laundering, Abusive Schemes and Transactions, Non-Filing, and Information Reporting.

Each manager was provided a summary of the information and then was given the responsibility to determine the resources required to address relevant issues with their impacted tribes in FY2012. The managers determined the extent of relevancy for each issue in their area, and estimated their resource needs by issue. Each manager was also asked to provide projections for administrative time, leave, training, etc., and to provide support for their time allocations. The resultant input was compiled and the results were reviewed. The management team worked to align the Work Plan with all of the data.

The data-driven approach allowed ITG to pinpoint specific issues and ensure a balanced approach between outreach and compliance activities.

WORK PLAN AREAS

ITG will support the Tax Exempt and Government Entities (TEGE) Division major strategies and operating priorities for FY2012. These strategies address key challenges we face in delivering top quality service to each customer, top quality service to all customers, and productivity through a quality work environment. These include actions to:

- Understand and Improve Compliance – ITG will continue to utilize employee input, customer input, data analysis, and environmental scanning, to secure a comprehensive knowledge of key compliance issues and causes of noncompliance. (as detailed below)
- Meet Customer Needs – ITG will work closely with customers through focus groups and it's Customer Satisfaction Survey, to ascertain their needs, as well as to design and deliver mutually agreeable remedies to identified compliance concerns and problems whenever possible. (as detailed below)

- Improve Organizational Performance – ITG will utilize balanced measures and analyze the results to enhance operations and improve performance. (as detailed below)
- Improve Knowledge and information Management – ITG will expand its use of data, and continue to use it to identify, track, and measure the impact of all field activities. ITG will continue to support the development and implementation of RCCMS as its primary work platform. (as detailed below)
- Build a Highly Qualified and Satisfied Workforce – ITG will continue to train its workforce so that employees have the skills necessary to meet customer needs. ITG will also continue its Knowledge Sharing process to expand technical skills of the ITG workforce, and will continue its use of the employee survey and ITG employee focus groups to identify opportunities for improvements in employee satisfaction. (as detailed below)

Budget Activity Code 52, PAC TT

This area represents the resources devoted to Pre-filing Education and Assistance, which includes customer education and outreach, direct and indirect assistance, and coordination of assistance actions between ITG and other functions.

Customer Focus Groups

ITG will continue to utilize a data-driven approach to identify compliance needs. This approach includes the continuation of employee input, customer focus groups, and compliance data analysis. Customer Focus Groups will include consultation listening meetings to be held, as appropriate, throughout the fiscal year. Due to concerns with the impact of the Bank Secrecy Act on tribes, ITG will ensure participation in Regional meetings by BSA examination staff from the Small Business/Self Employed Division. To meet the focus group needs in this area, ITG will devote resources to Activity Code 127.

ITG will also deliver education utilizing electronic media technology, such as Webinars. This effort was piloted in 2011 and will continue in 2012.

Customer Education and Outreach

ITG will undertake a series of activities that focus on addressing key areas of noncompliance through a combination of targeted outreach, new educational products and processes, and field compliance activities. While focus will be placed on the national and regional issues identified through research, environmental scanning, and focus groups, local actions will also be supported.

Outreach will focus on key areas such as anti money laundering requirements (a continuing area of national emphasis in all customer segments), employment tax and information reporting requirements, and tip reporting requirements.

ITG will undertake these efforts with trade organizations and stakeholder groups. ITG will also continue the issuance of one National Newsletter during FY2012. The newsletter will be used to provide customer education on technical issues and to disseminate information on meetings and seminars.

ITG will also deliver education utilizing electronic media technology such as Webinars. This effort was piloted in 2011 and will continue in 2012.

For FY2012, ITG will continue with a nationwide initiative begun in FY 2009 that is designed to provide targeted outreach on a regional basis in regard to employment tax and information reporting responsibilities. ITG will also pilot an advanced Employment Tax workshop as a second level to the basic regional workshops.

ITG will also continue to upgrade its portion of the www.irs.gov web site, and make further enhancements to information that will assist tribes in the self-determination of compliance problems.

Time expended in this area will be charged to Activity Codes 121, 122, 123, 124, 125, 126, and 591.

Stakeholder Relationship Management

ITG will continue to identify the optimal partners for joint activities. Stakeholder relationships will be fostered as a mechanism to involve customers in the development of outreach products and to leverage resources to maximize the benefit of customer education efforts.

Other Actions

ITG will continue three major activities during FY2012 that are designed to effect operational improvements.

- Balanced Measures - ITG will utilize Balanced Measures to determine Employee Satisfaction, Customer Satisfaction, and Business Results. Data from these measures will assist ITG to ensure that actions undertaken do not adversely impact any of the three areas, and will also assist ITG to identify areas in need of operational improvements in subsequent years.

As part of this process, ITG will continue the structured review of all examinations and compliance checks. Time spent in this area will be charged to Activity Code 641.

While the measures being utilized for Employee Satisfaction and Business Results are somewhat consistent with measures used by other functions, ITG will continue its Customer Satisfaction Survey, which is unique since it is primarily a relational survey. FY2012 will be the 8th year for an annual survey of all federally recognized tribes to ascertain their level of satisfaction with their relationship with the Service. Data collected

in prior surveys will continue to serve as a baseline, and FY2012 data will be analyzed to determine any change. As in past years, ITG will publish the results, as well as detail any remedial actions to be undertaken. A continuing objective of the survey will be the determination of opportunities for any reduction in taxpayer burden.

- Knowledge Sharing – ITG will continue its Knowledge Sharing process that focuses on enhancing employee technical knowledge. For FY2012, ITG will utilize the existing knowledge-sharing process as a mechanism to integrate new staff through their placement into these informal groups. This effort concentrates on the transfer of specialized technical knowledge between employees to improve both employee and customer satisfaction. Project codes 4275-4281 will be utilized to track the resources expended on activities where KSG processes are employed.
- Consultation Policy – During FY2012, ITG will continue to institutionalize a Consultation process within the IRS. Consultation listening meetings will be held, as appropriate, throughout the fiscal year.

Budget Activity Code 64, PAC EF

This area represents the resources devoted to Field Compliance Services, which includes compliance checks, return examinations, anti money laundering oversight, research, and requisite support work.

Workload Selection

ITG will continue to refine the workload selection criteria utilized in prior years. In addition, through various Memoranda of Understanding and Internal Revenue Manual provisions, ITG will continue to partner with internal stakeholders to assist in workload identification in areas such as excise tax, and Bank Secrecy Act examinations.

Workload selection will be monitored to ensure that key areas identified through environmental scanning, research, and focus groups are addressed, and that the actions being assigned represent the optimal approach to the identified issue. ITG will continue to undertake Compliance Checks as a mechanism to better understand customer needs and identify appropriate remedies to compliance issues. During FY2012, ITG will continue work regarding non-filers, as part of a national non-filer strategy.

Research

ITG will continue its annual analysis of federal tax compliance and will expend resources in Activity Codes 160 and 183 to complete the necessary actions.

Compliance Focus Areas

ITG field compliance workload includes the following key areas:

- Employment Tax

ITG will address employee vs. independent contractor issues that are identified through the filing of Forms SS-8, compliance checks, or regular workload selection. Time expended in this area will be charged to Activity Codes 463, 464, and 465, and 587.

ITG will place a significant emphasis on tip income compliance issues within tribal gaming and food service entities for FY2012. This includes solicitation and maintenance of Tip Rate Determination Agreements (TRDA) and Gaming Industry Tip Compliance Agreements (GITCA), as well as necessary examinations where there is a likelihood of noncompliance. ITG will also coordinate activities regarding nonparticipating employees, or employees of entities with unreported tip income, to ensure that the Wage and Investment Division has necessary information to make proper income tax and FICA assessments. Time expended in this area will be charged to Activity Codes 575 and 463.

- Anti-Money Laundering

ITG, in concert with the Bank Secrecy Act (BSA) staff in SBSE, will undertake actions to ensure that Indian tribal governmental entities subject to the BSA are properly identified and are fully aware of the requirements of the BSA. ITG will also provide assistance to SBSE as required, in the conduct of any BSA examinations involving tribal entities.

ITG will also conduct BSA Compliance Checks, to validate that tribal entities are meeting requirements in regard to training, program oversight, and recordkeeping. ITG will utilize data to determine tribal entities with low filing levels of FinCEN Forms 102 and 103 and will work with approximately 30 of those entities to assess their BSA Compliance Program in an effort to effect improvements. Time expended in this area will be charged to Activity Code 591.

- Information Reporting

ITG will work with tribal governments to resolve questions regarding the taxability of distributions to members, including per capita vs. general welfare distributions.

Reporting compliance in the proper filing of Forms 1099 and W-2G will be addressed through field compliance actions, including both compliance checks and examinations.

Time expended in this area will be charged to Activity Codes 587, 463, 470, and 520.

- Abusive Schemes and Fraud

ITG will utilize data, and also work with tribal governments, external stakeholders, and other IRS operating divisions, to identify promoters of abusive schemes and other activities that lead to violations of federal tax law and the Bank Secrecy Act. ITG will provide expertise required by law enforcement to develop evidence and prosecute those responsible for willful federal tax violations. In addition, ITG will provide expert witnesses as required for criminal prosecution of those responsible for such actions.

Time expended in this area will be charged to the relevant examination Activity Code for the returns being examined, as well as to Activity Codes 155 and 593.

FY2012 Initiatives

Within this budget and PAC Code, ITG will continue to undertake two (2) specific initiatives during FY2012. The initiatives are designed to address compliance issues within emerging market segments, or address potential issues arising from the current economic downturn. The first initiative will involve gaming and the appropriate information reporting that is required in the utilization of gaming revenues. The second initiative will involve non-filers, where ITG will aggressively seek delinquent returns from entities that have failed to file specific tax periods as identified from IRS data.

ITG-1 Gaming Initiative

The Gaming Initiative commenced by the office of Indian Tribal Governments in FY2005 will continue through FY2012. Continuing discussions with the Chairman of the National Indian Gaming Commission indicate their extreme interest in ensuring that tribes appropriately use gaming revenues, and properly account for such use. Since they have limited oversight of that issue, it falls upon the IRS to ensure that information reporting requirements are met with regard to the expenditure of such net revenues. The Indian gaming industry generated gross revenues of \$26.5 billion in 2010, holding the line with revenues a year earlier.² The National Indian Gaming Commission had reported 2009 gaming revenues of \$26.5 billion. We plan to devote 7 FTEs to this initiative our examination goal includes 175 returns from this initiative. Existing structures set up for the initial rollout of the Gaming Initiative in FY2005 will support this initiative. Time expended in this area will focus on Activity Codes 463, 520, and 587.

ITG-2 Non-Filer Initiative

ITG will utilize data contained in the RICS system to identify non-filers and stop-filers, and will assign such work for procurement of delinquent returns. Actions undertaken in this initiative will support the national non-filer strategy. We plan to devote 10 FTEs to this initiative in FY2012, and our examination goal includes 100 returns from this initiative. Time expended in this area will be applied to the Activity Code for the specific return types.

TRAINING

Major FY 2012 training will include:

Continuing Professional Education (CPE)

Virtual Continuing Professional Education (CPE) is planned for all ITG personnel. Delivery of the training will be through the use of Centra and Office Communicator System tools. Courses will be delivered in segments of 8 hours per quarter for a total of 32 hours for the FY2012 and will address technical topics, emerging issues, and work process changes.

² National Indian Gaming Commission. Annual 2010 Gross Gaming Revenue report released July 18 at a public meeting at the Chickasaw Nation Riverwind Casino in Norman, Oklahoma

Income Tax Training

ITG will attempt to identify a training curriculum to provide basic income tax training for new staff hired in FY 2009 and FY 2010 who have not undertaken that training previously.